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9
 10 IN THE UNITED STATES DISTRICT COURT
 11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
 12

13 SPY OPTIC, INC., a California corporation,
 14 Plaintiff
 15

Case No. 08CV0384 IEG RBB

**REPLY OF PLAINTIFF SPY
 OPTIC, INC. TO
 COUNTERCLAIMS OF WEST
 COAST DEALS, INC.**

16 vs.
 17 WEST COAST DEALS, INC., a California
 18 corporation doing business as
 19 WWW.HBSUNGLASSCOMPANY.COM;
 20 and DOES 1 through 5, inclusive
 21

22 Defendants
 23

24 WEST COAST DEALS, INC., a California
 25 corporation doing business as
 26 WWW.HBSUNGLASSCOMPANY.COM,
 27

28 Counterclaimant
 29

30 vs.
 31 SPY OPTIC, INC., a California corporation,
 32 and ROES 1 through 5, inclusive,
 33

34 Counterdefendants
 35

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COUNTERCLAIMS

Plaintiff and Counterdefendant Spy Optic, Inc. ("Spy") hereby responds to Defendant and Counterclaimant West Coast Deals, Inc. dba www.hbsunglasscompany.com's Counterclaims as follows:

JURISDICTION

1. Replying to paragraph 1 of the Counterclaims, Spy admits that jurisdiction is proper for the stated Counterclaims.

THE PARTIES

2. Replying to paragraph 2 of the Counterclaims, Spy admits upon information and belief that Counterclaimant is a California corporation with its principal place of business in Huntington Beach, California. Spy further admits that Counterclaimant sells sunglasses on its internet website.

3. Replying to paragraph 3 of the Counterclaims, Spy admits the allegations contained therein.

FIRST COUNTERCLAIM

(Declaratory Relief)

4. Replying to paragraph 4 of the Counterclaims, Spy realleges and adopts for reference herein its answers to paragraphs 1-3 of the Counterclaims as though fully set forth herein.

5. Replying to paragraph 5 of the Counterclaims, Spy admits the allegations contained therein.

6. Replying to paragraph 6 of the Counterclaims, Spy admits that there is an actual and continuing justiciable controversy between the parties regarding the alleged infringement of the asserted patents. Spy further admits that Counterclaimant contends that it has not infringed the patents-in-suit.

7. Replying to paragraph 7 of the Counterclaims, Spy admits that there is an actual and continuing justiciable controversy between the parties regarding the alleged invalidity of the asserted patents. Spy further admits the remaining

1 allegations contained therein.

2 8. Replying to paragraph 8 of the Counterclaims, Spy admits that
3 Counterclaimant desires a judicial determination of the issues alleged in paragraphs
4 8(a)-(f). Spy denies the truth and accuracy of each and every one of the charging
5 allegations asserted in paragraphs (a)-(f) regarding the non-infringement, lack of
6 enforceability, and invalidity of the asserted patents under the provisions of U.S.C.
7 Title 35.

8 9. Replying to paragraph 9 of the Counterclaims, Spy admits that a judicial
9 declaration is necessary and appropriate regarding the rights and duties of the parties
0 concerning the asserted patents.

PRAYER FOR RELIEF

WHEREFORE, Spy Optic, Inc. judgment as follows on Defendant's Counterclaims:

- A. That Defendant takes no relief sought by reason of its counterclaims.
- B. That this Court award Spy Optic, Inc. its attorneys' fees and costs of suit against Defendant on Defendant's Counterclaims.
- C. That this Court award Spy Optic, Inc. all other relief that the Court deems just and proper.

Dated: May 15, 2008

STETINA BRUNDA GARRED & BRUCKER

By: s/Stephen Z. Vegh

Kit M. Stetina

Stephen Z. Vegh

Attorneys for Plaintiff

SPY OPTIC, INC.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 15, 2008, a true and correct copy of the foregoing was served via electronic mail upon all counsel.

s/Stephen Z. Vegh

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